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36.12.101 DEFINITIONS Unless the context requires otherwise, to aid in the implementation of the Montana Water Use Act and as used in these rules:

- (1) "Act" means the Montana Water Use Act, Title 85, chapter 2, parts, 1-4, MCA.
- (2) "Amount" refers to both a flow rate in gallons per minute (gpm), or cubic feet per second (cfs), and a volume of water in acre-feet (af).
- (3) "Animal unit month (AUM)" means a measurement of livestock numbers:
 - (a) one beef cow = 1 AUM
 - (b) one dairy cow = 1.5 AUM
 - (c) one horse = 1.5 AUM
 - (d) three pigs = 1 AUM
 - (e) five sheep = 1 AUM
 - (f) 300 chickens = 1 AUM
- (4) "Applicant" means the "person", as defined in 85-2-102, MCA, who files a permit or change application with the department.
- (5) "Application" for purposes of ARM 36.12.120 through 36.12.122, 36.12.1301, 36.12.1401, 36.12.1501, and 36.12.1601 means an application for beneficial water use permit, Form No. 600, or an application to change a water right, Form No. 606.
 - (a) For the purposes of ARM 36.12.117 "application" means an application filed under 85-2-302, 85-2-316, 85-2-402, 85-2-407, and 85-2-408, MCA.
- (6) "Appropriation right" means any right to the use of water which would be protected under the law as it existed prior to July 1, 1973, and any right to the use of water obtained in compliance with the provisions and requirements of the act.
- (7) "Associated right" means multiple water rights filed by the same or different appropriators that share the same point of diversion, place of use, or place of storage.
- (8) "Basin closure area" means a hydrologic drainage basin area within which applications for certain water use permits cannot be accepted. Basin closure areas can be designated by statute, administrative rule, or in compacts.
- (9) "Certificate of survey number" means the official number given a parcel of land created by a registered land survey as filed with the county clerk and recorder.
- (10) "Cfs" means a flow rate of water in cubic feet per second and is equivalent to 448.8 gallons per minute. Applications for a flow rate of less than one cfs will be converted to gallons per minute.
- (11) "Change authorization" or "change" means an approval by the department to make a change in appropriation right as defined by 85-2-102, MCA, and allowed by 85-2-402, MCA.
- (12) "Claim" means a statement of claim filed pursuant to 85-2-221, MCA, for a water right established prior to July 1, 1973.
- (13) "Combined appropriation" means an appropriation of water from the same source aquifer by two or more groundwater developments, that are physically manifold into the same system.
- (14) "Cone of depression" means a cone-shaped depression of water table or pressure surface developing around a pumping well.
- (15) "Consumptive use" means the annual volume of water used for a beneficial purpose, such as water transpired by growing vegetation, evaporated from soils or water surfaces, or incorporated into products that does not return to ground or surface water.
- (16) "Controlled groundwater area" means an area that has additional management controls applied to new groundwater uses pursuant to 85-2-506 through 85-2-508, MCA.

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- (17) "Criteria addendum" means that additional portion of an application on which substantial credible information must address the criteria listed in 85-2-311 and 85-2-402, MCA.
- (18) "Dam" means an artificial barrier created by man-made means designed to form a basin to hold water and create a pond or reservoir.
- (19) "Deep percolation" means water that percolates below the root zone and infiltrates a deeper aquifer that is not used by other appropriators or connected to a surface water source.
- (20) "Department" means the Montana Department of Natural Resources and Conservation (DNRC).
- (21) "Domestic use" means those water uses common to a household including:
 - (a) food preparation;
 - (b) washing;
 - (c) drinking;
 - (d) bathing;
 - (e) waste disposal;
 - (f) cooling and heating; and
 - (g) garden and landscaping irrigation up to five acres.
- (22) "Drainage device" means a mechanism capable of draining or releasing substantially the full capacity of a reservoir.
- (23) "Element" means the factors which describe a water right including, but not limited to:
 - (a) the priority date;
 - (b) source of supply;
 - (c) point of diversion;
 - (d) means of diversion;
 - (e) period of diversion;
 - (f) flow rate;
 - (g) volume;
 - (h) acreage;
 - (i) purpose;
 - (j) place of use;
 - (k) period of use;
 - (l) storage capacity; and
 - (m) storage location.
- (24) "Existing right", in addition to its definition in 85-2-102, MCA, includes any appropriation of water commenced prior to July 1, 1973, if completed according to the law as it existed when the appropriation was begun.
- (25) "Evapotranspiration" means the loss of water from the soil both by evaporation and by transpiration from living plants.
- (26) "Flow rate" is a measurement of the rate at which water flows or is diverted, impounded, or withdrawn from the source of supply for beneficial use, and commonly measured in cubic feet per second (cfs) or gallons per minute (gpm).
- (27) "General abstract" means a department-generated document that reflects certain water right elements from the department's database.
- (28) "Gpm" means a flow rate of water in gallons per minute.
- (29) "Household" means the dwelling, house, or other domestic facilities where an individual, family, or social unit lives.

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- (30) "Hydraulically connected" means a saturated water-bearing zone or aquifer in contact with surface water or other water-bearing zone where rate of exchange of water between the two sources depends on the water level of the water-bearing zone or aquifer.
- (31) "Hydrologic system" means the overall movement of water, including snow and ice, above, on, or below the earth's surface.
- (32) "Irrigation use" means the controlled application of water to land to supply water requirements not satisfied by rainfall.
- (33) "Means of diversion" means the type of structures, facilities, or methods used to appropriate, impound, or collect water. Examples include, but are not limited to the following:
 - (a) dike;
 - (b) dam;
 - (c) ditch;
 - (d) headgate;
 - (e) infiltration gallery;
 - (f) pipeline;
 - (g) pump;
 - (h) pit; or
 - (i) well.
- (34) "Median year" means that water flow would be at the 50th percentile. Half of the years would have had higher flows and the other half would have had lower flows.
- (35) "Multiple domestic use" means a domestic use by more than one household or dwelling characterized by long-term occupancy as opposed to guests. Examples are domestic uses by:
 - (a) colonies;
 - (b) condominiums;
 - (c) townhouses; and
 - (d) subdivisions.
- (36) "Municipal use" means water appropriated by and provided for those in and around a municipality or an unincorporated town.
- (37) "Net depletion" for the purposes of 85-2-360, MCA, means the calculated volume, rate, timing, and location of reductions to surface water resulting from a proposed groundwater appropriation that is not offset by the corresponding accretions to surface water by water that is not consumed and subsequently returns to the surface water.
- (38) "Notice area" means a geographic area determined by the department which may include water rights affected by an application.
- (39) "Off-stream reservoir" means a reservoir that is not located on the source of supply and is supplied with water from a diversion means such as a pipe, headgate and ditch, or other means.
- (40) "On-stream reservoir" means a reservoir that is located on the source of supply.
- (41) "Owner of record" means a person who, according to the department's records, is the current owner of a water right.
- (42) "Ownership update" means the updating of the department's water right ownership records by the filing of an ownership update form, Form No. 608, pursuant to 85-2-421 through 85-2-426, MCA. The department's form does not transfer water rights or legally determine water

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right ownership. It only updates the department's centralized ownership records as reflected by the legal documents that actually transfer water rights.

- (43) "Period of diversion" means the period in a calendar year when water is diverted, impounded, or withdrawn from the source of supply. It is described by the earliest month and day and the latest month and day water is diverted during each year.
- (44) "Period of use" means the period in a calendar year when water is used for specified beneficial use. It is described as the earliest month and day and the latest month and day the water is beneficially used during each year.
- (45) "Place of use (POU)" means the land, facility, or site where water is beneficially used.
- (46) "Point of diversion (POD)" means the location or locations where water is diverted from the source of supply.
- (47) "Pit, pit-dam, or pond" means a body of water that is created by man-made means, which stores water for beneficial use.
- (48) "Place of storage" means a reservoir, pit, pit-dam, or pond.
- (49) "Potentially affected area" for the purposes of 85-2-361, MCA, means, as referred to in basin closure rules and in the context of a hydrogeologic assessment, the area or estimated area where groundwater will be affected by a proposed project. The identified area is not required to exceed the boundaries of the drainage subdivisions established by the Office of Water Data Coordination, United States Geological Survey, and used by the Water Court, unless the applicant chooses to expand the boundaries.
- (50) "Possessory interest" means the right to exert some interest or form of control over specific land. It is the legal right to possess or use property by virtue of an interest created in the property, though it need not be accompanied by fee title, such as the right of a tenant, easement holder, or lessee.
- (51) "Primary diversion" means the initial point from which a diversion means will remove or impound water from the source of supply.
- (52) "Priority date" means the clock time, day, month, and year assigned to a water right application or notice upon department acceptance of the application or notice. The priority date determines the ranking among water rights.
- (53) "Project" means a place of use that has its own identifiable flow rate, volume, and means of diversion.
- (54) "Recreational use" includes but is not limited to swimming, boating, water sports, and fishing.
- (55) "Reservoir" means a pond, pit, or pit-dam, created by man-made means that impounds and stores water.
- (56) "Return flow" means that part of a diverted flow which is applied to irrigated land and is not consumed and returns underground to its original source or another source of water, and to which other water users are entitled to a continuation of, as part of their water right. Return flow is not wastewater. Rather, it is irrigation water seeping back to a stream after it has gone underground to perform its nutritional function. Return flow results from use and not from water carried on the surface in ditches and returned to the stream.
- (57) "Secondary diversion" means a diversion that is not from the source of supply but is a diversion that is used after the water is diverted from the source of supply at the primary diversion. For example, a pump in a ditch or reservoir is a secondary diversion.
- (58) "Seepage water" means that part of a diverted flow which is not consumptively used and which slowly seeps underground and eventually returns to a surface or groundwater source,

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and which other water users can appropriate, but have no legal right to its continuance.

Typical examples of seepage water include underground losses from an irrigation ditch or pond.

- (59) "Senior water right" means a water right with a priority date that is earlier in time than another water right.
- (60) "Source aquifer" means the specific groundwater source from which water is diverted for a beneficial use.
- (61) "Source of supply" means the specific surface or groundwater source from which water is diverted for a beneficial use.
- (62) "Spring" means a hydrologic occurrence of water involving the natural flow of water originating from beneath the land surface and arising to the surface of the ground. A developed spring is groundwater if some physical alteration of its natural state occurs at its point of discharge from the ground, such as simple excavation, cement encasement, or rock cribbing. An undeveloped spring is surface water if no development occurs at its point of discharge and the appropriation is made from the waters flowing on the surface of the ground.
- (63) "Stock use" means the use of water for livestock, including but not limited to cattle, horses, pigs, sheep, llamas, and animals owned and controlled on game farms. It does not include domestic animals such as dogs and cats or wild animals.
- (64) "Surface water" means all water of the state at the surface of the ground, including but not limited to any river, stream, creek, ravine, coulee, undeveloped spring, lake, and other natural surface source of water regardless of its character or manner of occurrence.
- (65) "Temporary authorization or temporary change" means an authorization to change granted pursuant to 85-2-407 and 85-2-408, MCA, for a specific period of time and with an automatic expiration date.
- (66) "Temporary emergency appropriation" means the temporary beneficial use of water necessary to protect lives or property by reason of fire, storm, earthquake or other disaster, or unforeseen combination of circumstances which call for immediate action. An appropriation made necessary due to drought conditions is not a temporary emergency appropriation.
- (67) "Temporary permit" means a permit to appropriate water granted pursuant to Title 85, chapter 2, part 3, MCA, for a specific period of time and with an automatic expiration date.
- (68) "Transitory diversion" means a movable diversion that will divert water from several nonspecific points along a source of supply.
- (69) "Tributary" means the following:
 - (a) a surface water source feeding another surface water source; or
 - (b) groundwater hydraulically connected to a surface water source.
- (70) "Unnamed tributary" means a surface water stream, coulee, or draw, which is not named on a United States Geological Survey (USGS) or Water Resources Survey (WRS) map.
- (71) "Use of water for the benefit of the appropriator" means:
 - (a) the amount of water reasonably needed for the intended purpose;
 - (b) the amount of water needed for conveyance to the intended purpose; and
 - (c) water used for instream flow.
- (72) "Volume" means the acre-feet of water. Twelve acre-inches or 325,851 gallons are equal to one acre-foot.

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- (73) "Wastewater" means that part of a diverted flow which is not consumptively used and which returns as surface water to any surface water source, and which other water users can appropriate, but have no legal right to its continuance. A typical example is an irrigator who turns into the individual furrows traversing the irrigator's field from the head ditch more water than can seep into the ground. The water that stays on the surface and is not absorbed into the earth and which remains at the end of the furrow and is collected in a wastewater ditch is wastewater.
- (74) "Water flow estimating technique" means a mathematical method of estimating flow generally accepted by the department. This may be accomplished by correlating measurements of diversion system components with actual water use to estimate flow rate or volume of water used. An example is the use of measurements of power consumed by a pump to estimate the amount of water delivered by a pump. Another flow estimating technique would be to apply specific formulas developed by professional hydrologists based on climatic, basin, or stream channel characteristics to estimate stream flow.
- (75) "Water measuring device" means equipment that directly measures water flow in open or closed channels and conduits. Examples would be flow meters, weirs, flumes, and bucket and stop watch.
- (76) "Water Resources Survey (WRS)" means a survey by county of water resources and water rights in Montana by the former State Engineer's Office or Water Resources Board, predecessors of the department.
- (77) "Water saving method" means a change to the actual water use system or management of water use in which the modification being made would decrease the amount of water needed to accomplish the same result. Water saving methods might include:
- (a) changing from a ditch conveyance to a pipeline;
 - (b) lining an earthen ditch with concrete or plastic; and
 - (c) changing management of a water system to decrease water consumption.
- (78) "Zone of influence" means the horizontal extent of the cone of depression.

History: 85-2-113, 85-2-308 , 85-2-370, MCA; IMP, 85-2-113, 85-2-301 through 85-2-319, 85-2-321 through 85-2-323, 85-2-329 through 85-2-331, 85-2-335 through 85-2-338, 85-2-340 through 85-2-344, 85-2-350, 85-2-351, 85-2-360 through 85-2-364, 85-2-368, 85-2-370, 85-2-401, 85-2-402, 85-2-407, 85-2-408, 85-2-410 through 85-2-413, 85-2-415 through 85-2-419, 85-2-436, 85-2-437, 85-2-439, 85-2-501 through 85-2-514, 85-2-518, 85-2-520, MCA; NEW, Eff. 7/5/73; AMD, Eff. 2/4/75; AMD, 1987 MAR p. 1560, Eff. 9/11/87; AMD, 1992 MAR p. 1615, Eff. 7/31/92; AMD, 1993 MAR p. 1335A, Eff. 6/25/93; AMD, 2004 MAR p. 3036, Eff. 1/1/05; AMD, 2006 MAR p. 1387, Eff. 6/2/06; AMD, 2007 MAR p. 508, Eff. 3/26/07; AMD, 2007 MAR p. 1098, Eff. 8/10/07; AMD, 2008 MAR p. 140, Eff. 2/1/08; AMD, 2008 MAR p. 567, Eff. 3/28/08; **AMD, 2011 MAR p. 2043, Eff. 10/1/11.**

36.12.102 FORMS

- (1) The following necessary forms for implementation of the act and these rules are available from the Department of Natural Resources and Conservation, P.O. Box 201601, Helena, Montana 59620-1601 and its Water Resources regional offices, or on the World Wide Web at <http://dnrc.mt.gov/wrd/default.asp>. The department may revise as necessary the following forms to improve the administration of these rules and the applicable water laws:
 - (a) Form No. 600, "Application for Beneficial Water Use Permit", which must be submitted for groundwater developments in excess of 35 gpm or ten acre-feet per year and surface water appropriations;
 - (b) Form No. 602, "Notice of Completion of Groundwater Development", which must be submitted for groundwater developments with a maximum use of 35 gpm or less, not to exceed ten acre-feet per year;
 - (c) Form No. 603, "Well Log Report";
 - (d) Form No. 605, "Application for Provisional Permit for Completed Stockwater Pit or Reservoir", which must be submitted for a pit or reservoir with a maximum capacity of less than 15 acre-feet and a total appropriation of less than 30 acre-feet per year;
 - (e) Form No. 606, "Application to Change a Water Right";
 - (f) Form No. 607, "Application for Extension of Time";
 - (g) Form No. 608, "Water Right Ownership Update";
 - (h) Form No. 611, "Objection to Application";
 - (i) Form No. 613, "Fee Schedule for Water Use in Montana";
 - (j) Form No. 615, "Water Conversion Table";
 - (k) Form No. 617, "Project Completion Notice for Permitted Water Development";
 - (l) Form No. 618, "Project Completion Notice for Change of a Water Right";
 - (m) Form No. 625, "Water Right Correction";
 - (n) Form No. 626, "Application to Renew a Temporary Water Right Change";
 - (o) Form No. 630, "Controlled Groundwater Area Petition";
 - (p) Form No. 631, "Petition for Closure of a Highly Appropriated Basin";
 - (q) Form No. 634, "Replacement Well Notice", which must be submitted for municipal wells that do not exceed 450 gpm, or for all other wells that do not exceed 35 gpm and ten acre-feet per year;
 - (r) Form No. 635, "Redundant Well Construction Notice", which must be submitted for redundant wells in a public water supply system as defined by 75-6-102, MCA;
 - (s) Form No. 636, "Interim Permit Request";
 - (t) Form No. 637, "Reinstatement Request", which must be submitted to reinstate a permit or change authorization;
 - (u) Form No. 638, "Water Reservation Application for Instream Flow", which must be submitted for instream flow water reservation applications allowed under the United States of America, Department of Agriculture, Forest Service-Montana Compact, Article VI, section B;
 - (v) Form No. 639, "Waiver of Statutory Timelines";
 - (w) Form No. 640, "Certification of Water Right Ownership Update", which must be completed and submitted to the county clerk and recorder with a Realty Transfer Certificate when a water right is being divided or exempted (reserved) from the property;
 - (x) Form No. 641, "DNRC Ownership Update, Divided Interest", which must be submitted for a water right that will be divided;
 - (y) Form No. 642, "DNRC Ownership Update, Exempt (Reserved) Water Right", which must be submitted for a water right that will be exempted (reserved) from a sale of land, and for which the seller will retain ownership of the water right);

- (z) Form No. 643, "DNRC Ownership Update, Severed Water Right", which must be submitted where a water right will be severed from the land. A severed water right does not involve a land sale;
- (aa) Form No. 644, "Notice of Replacement Point of Diversion", which must be submitted for replacement of surface water points of diversion under 85-2-402(18), MCA;
- (ab) Form No. 645, "Permit Registration for Groundwater Use Within the National Park Service Compact Area", which must be submitted for groundwater developments with a maximum use of 35 gpm or less, not to exceed ten acre-feet per year;
- (ac) Form No. 646, "Geothermal Heating/Cooling Notice of Completion", which must be submitted for groundwater developments for a geothermal purpose with a maximum use of 350 gpm;
- (ad) Form No. 647, "Notice of Completion of Emergency Fire Protection Development", which must be submitted for groundwater developments by local governmental fire agencies organized under Title 7, chapter 33, MCA, for emergency fire protection; and
- (ae) Form No. 648, "Petition to Subordinate a State Water Reservation".

History: 85-2-113, MCA; IMP, 85-2-113, 85-2-306, 85-2-306, 85-2-311, 85-2-316, 85-2-402, 85-2-424, 85-20-401, MCA; NEW, Eff. 7/5/73; AMD, Eff. 2/4/75; AMD, 1982 MAR p. 702, Eff. 4/16/82; AMD, 1984 MAR p. 882, Eff. 6/1/84; AMD, 1987 MAR p. 1560, Eff. 9/11/87; AMD, 1992 MAR p. 1615, Eff. 7/31/92; AMD, 1996 MAR p. 2430, Eff. 9/20/96; AMD, 2000 MAR p. 636, Eff. 2/25/00; AMD, 2003 MAR p. 1535, Eff. 7/18/03; AMD, 2008 MAR p. 326, Eff. 2/15/08; AMD, 2008 MAR p. 1820, Eff. 8/29/08; **AMD, 2011 MAR p. 2043, Eff. 10/1/11.**

36.12.103 FORM AND SPECIAL FEES

- (1) A filing fee, if required, shall be paid at the time the permit, change, notice of completion, extension of time request, temporary change renewal, ownership update, or petition application (hereafter singularly or collectively referred to as application) is filed with the department.
 - (a) The department will not process any application without the proper filing fee.
 - (b) Failure to submit the proper filing fee within 30 days after notice shall result in a determination that the application is not correct and complete and it shall be terminated.
- (2) The department will assess the following filing fees:
 - (a) For an Application for Beneficial Water Use Permit, Form No. 600, filed pursuant to 85-2-330, 85-2-336, 85-2-341, 85-2-343, or 85-2-344, MCA, or in an administratively closed basin pursuant to 85-2-319, 85-2-321, or 85-2-322, MCA, or a controlled groundwater area pursuant to 85-2-506 and 85-2-507, MCA, or filed under a compact pursuant to Title 85, chapter 20, MCA, for all surface water, or a groundwater appropriation of greater than 35 gallons per minute, there shall be a fee of \$800;
 - (b) For an Application for Beneficial Water Use Permit, Form No. 600, filed pursuant to 85-2-330, 85-2-336, 85-2-341, 85-2-343, or 85-2-344, MCA, or in an administratively closed basin pursuant to 85-2-319, 85-2-321, or 85-2-322, MCA, or a controlled groundwater area pursuant to 85-2-506 and 85-2-507, MCA, or filed under a compact pursuant to Title 85, chapter 20, MCA, for a groundwater appropriation of 35 gallons per minute or less, there shall be a fee of \$200;
 - (c) For an Application for Beneficial Water Use Permit, Form No. 600, not filed pursuant to 85-2-330, 85-2-336, 85-2-341, 85-2-343, or 85-2-344, MCA, nor in an administratively closed basin pursuant to 85-2-319, 85-2-321, or 85-2-322, MCA, nor a controlled groundwater area pursuant to 85-2-506 and 85-2-507, MCA, nor filed under a compact pursuant to Title 85, chapter 20, MCA, for all surface water, or a groundwater appropriation of greater than 35 gallons per minute there shall be a fee of \$600;
 - (d) \$150, in addition to the fees in either (a), (b), or (c) for an Interim Permit Request, Form No. 636;
 - (e) \$125 for a Notice of Completion of Groundwater Development, Form No. 602, filed for groundwater developments with a maximum use of 35 gpm or less, not to exceed ten acre-feet per year;
 - (f) \$125 for an Application for Provisional Permit for Completed Stockwater Pit or Reservoir, Form No. 605, filed for a pit or reservoir with a maximum capacity less than 15 acre-feet;
 - (g) \$700 for an Application to Change a Water Right, Form No. 606, except in the following instances, where there shall be a \$200 fee:
 - (i) if the change application concerns a replacement well greater than 35 gpm or ten acre-feet, or a municipal well that does not exceed 450 gpm, or replacement reservoir located on the same source; or
 - (ii) if the change application concerns only moving or adding stock tanks to an existing system;
 - (h) \$200 for an Application for Extension of Time, Form No. 607;
 - (i) \$50, plus \$10 for each water right transferred after the first water right, for a Water Right Ownership Update, Form No. 608. The total amount shall not exceed \$300;
 - (j) \$25 for an Objection to Application, Form No. 611;
 - (k) \$200 for an Application to Renew a Temporary Water Right Change, Form No. 626;
 - (l) \$1500 for a Controlled Groundwater Area Petition, Form No. 630. The petitioner shall also pay:

- (i) publication costs of the proposed rules in the Montana Administrative Register;
 - (ii) photocopy and postage costs for copying and mailing the Administrative Rule Proposal Notice and appointment of the hearing examiner to all land owners and water right owners located within the proposed boundaries and other persons as required by 85-2-319, MCA;
 - (iii) photocopy and postage costs for copying and mailing the Notice of Adoption and other documents as needed;
 - (iv) newspaper publication of the Notice of Rulemaking Hearing;
 - (v) actual rental costs for the hearing location and required sound equipment as determined by the hearing examiner; and
 - (vi) other costs of holding the hearing, conducting investigations or studies, and making records pursuant to 85-2-319, MCA, except the cost of salaries of the department personnel;
- (m) \$1500 for a Petition for Closure of a Highly Appropriated Basin, Form No. 631. The petitioner shall also pay:
- (i) publication costs of the proposed rules in the Montana Administrative Register;
 - (ii) photocopy and postage costs for copying and mailing the Administrative Rule Proposal Notice and appointment of the hearing examiner to all land owners and water right owners located within the proposed boundaries and other persons as required by 85-2-319, MCA;
 - (iii) photocopy and postage costs for copying and mailing the Notice of Adoption and other documents as needed;
 - (iv) newspaper publication of the Notice of Rulemaking Hearing;
 - (v) actual rental costs for the hearing location and required sound equipment as determined by the hearing examiner; and
 - (vi) other costs of holding the hearing, conducting investigations or studies, and making records pursuant to 85-2-319, MCA, except the cost of salaries of the department personnel;
- (n) \$100 for a Replacement Well Notice, Form No. 634;
- (o) \$50 for a Redundant Well Construction Notice, Form No. 635;
- (p) \$200 for a Reinstatement Request, Form No. 637;
- (q) \$800 for a Water Reservation Application for Instream Flow, Form No. 638. The applicant shall also pay:
- (i) photocopy and postage costs for copying and mailing the appointment of the hearing examiner and notice of hearing;
 - (ii) photocopy and postage costs for copying and mailing the hearing examiner's proposal for decision, final order, and other orders as needed;
 - (iii) newspaper publication of the notice of hearing and orders as required by statute and the hearing examiner; and
 - (iv) actual rental costs for the hearing location and required sound equipment as determined by the hearing examiner;
- (r) \$50 for each divided water right on Form No. 641, DNRC Ownership Update, Divided Interest;
- (s) \$50 for each exempted water right on Form No. 642, DNRC Ownership Update, Exempt (Reserved) Water Right;
- (t) \$50 for each severed water right for Form No. 643, DNRC Ownership Update, Severed Water Right;
- (u) \$400 for Form No. 644, Notice of Replacement Point of Diversion;
- (v) \$200 for Form No. 645, Permit Registration for Groundwater Use Within the National Park Service Compact Area;

- (w) \$200 for Form No. 646, Geothermal Heating/Cooling Notice of Completion; and
 - (x) \$125 for Form No. 647, Notice of Completion of Emergency Fire Protection Development.
- (3) There shall be no fees charged for filing the following forms:
- (a) Form No. 617, Project Completion Notice of Permitted Water Development;
 - (b) Form No. 618, Project Completion Notice for Change of a Water Right;
 - (c) Form No. 625, Correction to a Water Right;
 - (d) Form No. 639, Waiver of Timelines;
 - (e) Form No. 640, Certification of Water Right Ownership Update; and
 - (f) Form No. 648, Petition to Subordinate a State Water Reservation.
- (4) The department will charge special service fees not to exceed reasonable amounts, including, but not limited to the following:
- (a) costs associated with contracting for professional hearings officer services;
 - (b) costs for computer data reports; and
 - (c) reasonable public information access fees including copies, blueprints or tracings, audio copies of a hearing, and other requests as per 2-6-110, MCA, and department public information policy.

History: 85-2-113, MCA; IMP, 85-2-113, 85-2-306, 85-2-311, 85-2-312, 85-2-402, 85-2-436, 85-20-401, MCA; NEW, Eff. 7/5/73; AMD, Eff. 2/4/75; AMD, 1982 MAR p. 702, Eff. 4/16/82; AMD, 1984 MAR p. 882, Eff. 6/1/84; AMD, 1985 MAR p. 1242, Eff. 8/30/85; AMD, 1987 MAR p. 1560, Eff. 9/11/87; AMD, 1991 MAR p. 1009, Eff. 6/28/91; AMD, 1992 MAR p. 1615, Eff. 7/31/92; AMD, 1993 MAR p. 1335A, Eff. 6/25/93; AMD, 1996 MAR p. 2430, Eff. 9/20/96; AMD, 1997 MAR p. 2084, Eff. 11/18/97; AMD, 2000 MAR p. 636, Eff. 2/25/00; AMD, 2003 MAR p. 1535, Eff. 7/18/03; AMD, 2008 MAR p. 326, Eff. 2/15/08; AMD, 2008 MAR p. 1820, Eff. 8/29/08; **AMD, 2011 MAR p. ?, Eff. 10/1/11.**

36.12.1701 FILING A PERMIT APPLICATION

- (1) An application for beneficial water use permit (Form No. 600) must be filed when an applicant desires to use:
 - (a) groundwater that exceeds 35 gallons per minute or a volume of 10 acre-feet;
 - (b) groundwater developments that exceed 350 gallons per minute for nonconsumptive geothermal use;
 - (c) groundwater sources within a controlled groundwater area, as required; or
 - (d) all surface water appropriations.
- (2) Separate applications are required for:
 - (a) each source of supply. For example, if an application is for two diversions, one on an unnamed source and another on a source to which it is tributary, two separate applications must be submitted, one for each source of supply; and
 - (b) multiple purposes supplied by different points of diversion on the same source. If the entire project is manifold into one system, then a single application is allowed. "Manifold" means two or more diversions from the same source, which are connected into a single system for the same project or development. An example of a manifold system is two pumps on one source or two wells pumping from the same aquifer which divert water into the same reservoir or cistern.
- (3) One application is allowed for:
 - (a) one purpose and multiple points of diversion on the same source; and
 - (b) for several purposes, if all the points of diversion supply all of the same purposes.
- (4) An application must contain sufficient factual documentation to constitute probable believable facts sufficient to support a reasonable legal theory upon which the department should proceed with the application.
- (5) Form No. 600 must be completed and must describe the details of the proposed project. The form must be filled in with the required information. The following must be included in the permit application materials:
 - (a) calculations, references, and methodologies used to determine flow rate, volume, or reservoir capacity must be included in the application materials;
 - (i) flow rate (in gallons per minute [gpm] or cubic feet per second [cfs]), volume (in acre-feet), or reservoir capacity (in acre-feet) figures will be rounded to the nearest tenth;
 - (b) the source name, which must be identified as per ARM 36.12.114;
 - (c) the legal descriptions for the point of diversion and place of use, which must be identified as per ARM 36.12.110;
 - (d) the period of diversion, which must be identified as per ARM 36.12.112;
 - (e) if an application involves a reservoir, the reservoir standards as per ARM 36.12.113 must be followed;
 - (f) a general project plan stating when and how much water will be put to beneficial use;
 - (i) for appropriations over 4000 af or more and 5.5 cfs or more, or for water marketing, additional information is required, as per 85-2-310, MCA;
 - (g) if photographs are included, they must include the name of the photographer, the date taken, and an explanation of what fact or issue the photograph is offered to verify;
 - (h) if there are associated water rights to the application, they must be identified and additional information may be required;
 - (i) if a permit application is to supplement another water right, the water right numbers and abstracts of the associated water rights;
 - (j) an explanation of why supplemental water is needed and how the associated water rights will be managed;

- (k) the flow rate at which water will be diverted from the source of supply for each purpose, a reasonable volume of water for each purpose, and the period of time that water will be used for each purpose must be identified;
- (l) an application that is only to increase the flow rate or volume must reflect a value of zero in the nonapplicable field. For example, if an applicant is applying to only increase the flow rate of water taken from a source, but no additional volume is needed, the application flow rate blank should be completed with the additional flow of water requested and the blank for acre-feet (volume) should reflect zero;
- (m) information that explains why the time period for completion is requested. The explanation may include information about the cost and magnitude of the project and the complexity of the project or any other reason for the time period identified to complete the project; and
- (n) an applicant shall explain why required information is not applicable to the applicant's proposed project.

History: 85-2-113 and 85-2-302, MCA; IMP, 85-2-302, 85-2-311, MCA; NEW, 2004 MAR p. 3036, Eff. 1/1/05; **AMD, 2011 MAR p. ?, Eff. 10/1/11.**)